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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
:
DAVID SELLERS, :
:
Plaintiff, :
:
v. :
ROYAL BANK OF CANADA, RBC USA : Case No. 12-Civ-1577 (KBF)
HOLDCO CORPORATION, RBC : ECF
CAPITAL MARKETS CORPORATION, :
LLC, and JOHN DOES 1-5, :
:
Defendants. ----- X

AFFIDAVIT OF AUGUST W. HECKMAN III

I, AUGUST W. HECKMAN III, ESQ., declare under penalty of perjury as follows:

1. I am an associate with the law firm of Morgan, Lewis & Bockius LLP, attorneys for Defendants in the above-captioned case. I submit this Declaration in support of Defendants' motion for summary judgment under Fed. R. Civ. P. 56.

2. Attached hereto as Exhibit A is a true and correct copy of relevant excerpts from the October 10, 2013 deposition transcript of Plaintiff David Sellers ("Plaintiff").

3. Attached hereto as Exhibit B is a true and correct copy of Plaintiff's LinkedIn profile page referenced during his deposition, accessed and printed on October 25, 2013.

4. Attached hereto as Exhibit C is a true and correct copy of the August 7, 2006 Consulting Agreement entered into between Risk Management Consulting Services ("RMCS")

and RBC, which was executed by Plaintiff on behalf of RMCS, to provide consulting services to RBC Group Risk Management.¹

5. Attached hereto as Exhibits D through J are true and correct copies of the Group Risk Management Consulting Agreement addendums.

6. Attached hereto as Exhibit K is a true and correct copy of the February 1, 2008 addendum to the RMCS/RBC Consulting Agreement, under which RMCS provided services to RBC Corporate Banking.

7. Attached hereto as Exhibit L is a true and correct copy of the February 12, 2008 email correspondence from Plaintiff to Christian Brune.

8. Attached hereto as Exhibit M is a true and correct copy of the January 21, 2008 email correspondence from Plaintiff to Stephen Walker.

9. Attached hereto as Exhibits N through R are true and correct copies of the Corporate Banking Consulting Agreement addendums.

10. Attached hereto as Exhibit S is a true and correct copy of the April 27, 2008 email correspondence between Plaintiff and RBC with attached redlined Agreement For Consulting Services.

11. Attached hereto as Exhibit T is a true and correct copy of the Partially Executed Credit Suisse Consulting Agreement and Related Documents Produced by Plaintiff.²

12. Attached hereto as Exhibit U is a true and correct copy of the Fully-Executed Sellers/Credit Suisse Consulting Agreement, with attachments.

13. Attached hereto as Exhibit V is a true and correct copy of the relevant portions of Plaintiff's Interrogatory Responses.

¹ The remaining documents attached hereto were produced by the parties during discovery.

² Plaintiff did not bates-label his document production.

14. Attached hereto as Exhibit W is a true and correct copy of the RMCS Invoice to Credit Suisse produced by Plaintiff.

15. Attached hereto as Exhibit X is a true and correct copy of the Credit Suisse Disbursement Voucher to RMCS produced by Credit Suisse.

16. Attached hereto as Exhibit Y is a true and correct copy of the October 11, 2008 letter from RMCS to Credit Suisse.

17. Attached hereto as Exhibit Z is a true and correct copy of Plaintiff's federal tax records for the years 2008, 2009, 2011 and 2012 produced by Plaintiff.³ These documents are being submitted with Defendants' October 25, 2013 Motion to File Documents Under Seal.

18. Attached hereto as Exhibit AA is a true and correct copy of the October 30, 2008 email correspondence from Plaintiff to Jake Sigmund.

19. Attached hereto as Exhibit BB is a true and correct copy of the February 11, 2009 email correspondence from Plaintiff to J. Sigmund.

20. Attached hereto as Exhibit CC is a true and correct copy of the February 11, 2009 email correspondence from Plaintiff to Christian Brune.

21. Attached hereto as Exhibit DD is a true and correct copy of the August 16, 2013 Response from the New York State Department of Labor to a Freedom of Information Law Request.

22. Attached hereto as Exhibit EE is a true and correct copy of Plaintiff's December 8, 2009 Charge of Discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC").

³ Plaintiff did not produce federal tax records for the year 2010. Defendants renewed their request for production of these records during Plaintiff's October 10, 2013 deposition. Plaintiff has not yet produced them.

23. Attached hereto as Exhibit FF is a true and correct copy of the February 5, 2010 letter from RBC to RMCS.

24. Attached hereto as Exhibit GG is a true and correct copy of the June 28, 2011 letter from RBC to the EEOC.

25. Attached hereto as Exhibit HH is a true and correct copy of the November 21, 2011 Notice of Right to Sue letter issued by the EEOC to Plaintiff.

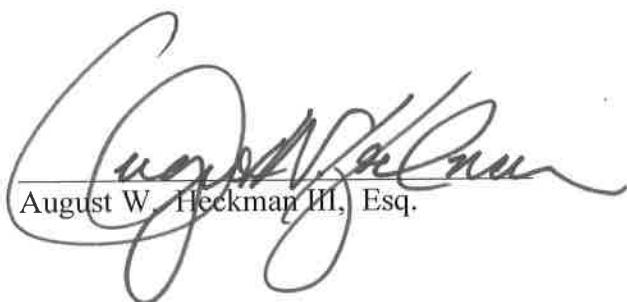
26. Attached hereto as Exhibit II is a true and correct copy of the February 15, 2012 Tolling Agreement entered into between Plaintiff and RBC.

27. Attached hereto as Exhibit JJ are true and correct copies of the Independent Contractor Letter Agreements between Plaintiff and the Lewis Center For Visual Arts at Princeton University.

28. Attached hereto as Exhibit KK are true and correct copies of Plaintiff's IRS Form 1099's from Princeton University for the years 2010 to 2012.

I declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the foregoing is true and correct.

Dated: October 25, 2013.



August W. Heckman III, Esq.

EXHIBIT A

USDC, SD of NY
No. 12-Civ-1577 (KBF) ECF

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Videotape Deposition of David Sellers

Thursday
October 10, 2013

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 12-Civ-1577 (KBF) ECF

DAVID SELLERS,

Plaintiff,

vs.

ROYAL BANK OF CANADA;
RBC USA HOLDCO CORPORATION,
RBC CAPITAL MARKETS
CORPORATION, LLC, and
JOHN DOES 1-5,

Defendants.

Thursday, October 10, 2013

Oral sworn videotaped deposition of DAVID SELLERS, taken at the law offices of Morgan, Lewis & Bockius, LLP, 502 Carnegie Center, Princeton, New Jersey, on the above date, commencing at 10:03 a.m., there being present:

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1 Q. Umm-hmm.

2 A. **And that is, too, that, you know, when you**
3 **have a lot of experience, that experience implies**
4 **age. You've been around for a long time, in my case**
5 **anyway, I would look at my resume and I gained that**
6 **experience over time and therefore, therefore, I was**
7 **older. So age --**

8 Q. And with experience not only comes the
9 passage of time, but comes an increased amount of
10 compensation, correct? In other words, someone
11 who's more experienced?

12 A. **God willing.**

13 Q. Right. Okay.

14 A. **God willing.**

15 Q. You -- so my question really though was
16 this. While working, and I understand that you're
17 testifying you had a general concern about what your
18 age was at the time, in 2008, how old would you have
19 been or how old were you?

20 A. **2008, I would say 56.**

21 Q. 56, okay.

22 A. **You know, it depends on where in 2008 of**
23 **course.**

24 Q. When's your birthday?

25 A. **August 14th.**

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1 Q. What year?

2 A. '52.

3 Q. My question is while you're there, while
4 you're at RBC, not afterwards looking backwards,
5 while you're there, did any event happen that caused
6 you to think I'm being discriminated against because
7 of my age, not I'm concerned about my age in general
8 in the market?

9 A. **Any single event, I would say no.**

10 Q. Okay.

11 A. **And I would say that the subsequent events**
12 **would have served to dispel, in fact, any concerns**
13 **that I had about age. Now, right or wrong, I -- and**
14 **perhaps I was a bit generous in interpreting events**
15 **in favor of RBC at the time, but, you know, I would**
16 **say that subsequent events tended to allay my**
17 **concerns.**

18 **I'm tilting here. Is that okay?**

19 Q. We'll get to that in a second, but I don't
20 want to get too far off.

21 A. **That's fine.**

22 Q. You mentioned your general concerns about
23 your age and the marketplace and you said something
24 along the lines of in that market in particular, so
25 in 2008, the market, can you just describe for me,

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1 authority to commit the bank's balance sheet?

2 A. Did I have the authority to commit the
3 bank's balance sheet? That's a trick question,
4 isn't it?

5 Q. It is? I don't know. Is it?

6 A. Yeah, it's a trick question.

7 Q. Why is it a trick question?

8 A. Because -- because it's one of the very few
9 things that given the fact that my employment
10 relationship was not regularized that the bank could
11 not give me. A corporate banking officer normally
12 has some authority, depending on what their rank is
13 within the institution, has some authority to commit
14 the bank's balance sheet. However, I was in this
15 awkward position where I was -- and this is a
16 disputed point -- that I was acting in all respects
17 as a corporate banking officer, but still with --
18 under a contract as an independent contractor. And
19 there were limits in -- you know, I'm sure
20 ultimately imposed by regulations and the law
21 generally with respect to banking, to how much I
22 could perform as a corporate banker, and one of the
23 very few limits that was there was -- had to do
24 with -- with lending authority. Now, having said
25 that --

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1 Q. Well, what --

2 A. No, go ahead. I'm sorry. Go ahead.

3 Q. What were the other limits?

4 A. No flu shot. Sorry.

5 Q. That's okay.

6 A. It's true, no flu shots for independent
7 contractors. I could have fought for it, but I
8 didn't.

9 Q. Did that fall in line with other typical HR
10 type benefits that are available for the regularized
11 employees --

12 A. Oh, absolutely.

13 Q. -- that you referred to?

14 A. Yeah, but I mean, I'm being somewhat
15 facetious --

16 Q. Right.

17 A. -- with saying the flu shots. But, yeah,
18 needless to say, the other benefits that are
19 available to employees who are -- who have I'm going
20 to for want of a better phrase I'm going to say
21 whose relationship is regularized --

22 Q. Okay.

23 A. -- the bank couldn't give me a business
24 card that said David Sellers because I didn't have a
25 regularized title. So --

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1 across the board, in terms of my interactions and
2 access to internal and external constituencies of
3 the bank, there was no distinction between -- none
4 that I could perceive between myself and a regular
5 employee.

6 Q. Was the access to those systems and those
7 interactions both external and internal, were
8 they --

9 A. **Yeah.**

10 Q. -- necessary for you to perform the
11 projects or duties and responsibilities for which
12 you were engaged?

13 A. **Absolutely, my assignments we'll call them,**
14 **shall we?**

15 Q. Okay. Good. Assignments.

16 A. **My assignments and responsibilities, yes.**

17 Q. Who introduced you to external clients?

18 A. **Let me think about that.**

19 Q. And these questions --

20 A. **Yeah.**

21 Q. -- are all geared towards the time period
22 in which you're working for corporate banking --

23 A. **Understood, understood.**

24 Q. -- or performing services for corporate
25 banking.

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1 Q. So we know it's California, what other
2 clients, external clients would you have interacted
3 with besides officials from California?

4 A. Well, again, depending -- it's transaction
5 driven, it's deal driven.

6 Q. Okay.

7 A. So each transaction has its own deal team
8 and each deal team is going to include individual
9 clients, individuals representing the clients.

10 So, for example, there was a financing that
11 I was involved with for the school district of
12 Pembroke Pines, don't quote me on that, I forgot the
13 exact name of the issuer, but there would have been
14 individuals who really led their deal team who
15 represented the county or the City of Richmond.

16 Q. And what I'm looking for --

17 A. Sure.

18 Q. -- would be the city of Pembroke Pines --

19 A. Right.

20 Q. -- so let me try this a different way.

21 A. Yeah, go ahead, yeah.

22 Q. Do you recall working for well, one, the
23 city of Pembroke Pines, that being one of the
24 clients?

25 A. I'm pretty sure it was the city of Pembroke

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1 **Pines --**

2 Q. Okay.

3 A. -- but I'm not sure of the exact name.

4 Q. Then do we have -- do you recall working on
5 assignments for the Richmond Community Youth
6 Development Agency?

7 A. **Absolutely, absolutely.**

8 Q. Okay. Do you recall working on assignments
9 for the City of Port Saint Lucie?

10 A. **Yes, yes.**

11 Q. Do you recall working on assignments for
12 New Mexico Energy?

13 A. **New Mexico Municipal Electric Energy**
14 **Authority or something -- energy authority, yes.**

15 Q. Okay. And is this part of something --

16 A. **NMMEA.**

17 Q. I'm sorry?

18 A. **NMMEA. So if you fill in the rest of it,**
19 **you'll get it right.**

20 Q. We could tease that out.

21 A. **Okay.**

22 Q. Would that have been part of work on
23 something referred to as prepaid gas?

24 A. **It would.**

25 Q. Okay. Was there other work or assignments

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1 involved under the umbrella of prepaid gas?

2 **A.** **Yes.**

3 **Q.** Okay.

4 **A.** **There were.**

5 **Q.** Is that -- sounds to me like that could be
6 a sort of a subgroup of a way to characterize a
7 certain group of transactions or deals?

8 **A.** **That's correct. I think that's fair to**
9 **say.**

10 **Q.** How would you then characterize, if there
11 is one, the work that was performed for California?

12 **A.** **In comparison would you say?**

13 **Q.** So in other words --

14 **A.** **Yeah.**

15 **Q.** -- the New Mexico Energy, NM whatever it
16 is, right?

17 **A.** **Right, right.**

18 **Q.** That falls under the umbrella of prepaid
19 gas?

20 **A.** **Umm-hmm.**

21 **Q.** Is there an umbrella for which your
22 assignments for California would fall under?

23 **A.** **Well, yeah, I would say the umbrella would**
24 **be state commercial paper programs.**

25 **Q.** Fine. Okay.

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1 A. You know, I mean that's the nature of that
2 financing.

3 Q. Do you recall assignments related to UPMC?

4 A. Yes, yes, I do.

5 Q. Do you recall what UPMC stands for?

6 A. University of Pittsburgh Medical Center.

7 MR. HECKMAN: I'm taking you down to
8 the wire.

9 Q. Do you recall assignments related to
10 Lancaster?

11 A. Yes, that would fall under prepaid gas.

12 Q. Prepaid gas.

13 Okay.

14 Okay. We're going to take a break because
15 we have to switch the videotape.

16 A. You've got to change the film.

17 Q. Right. And we might as well take a few
18 minutes, we can use the restroom and you can have
19 some of your tea.

20 A. I'm good. Yeah, I'll just sip some tea.

21 MR. HECKMAN: Okay.

22 THE VIDEOGRAPHER: We've reached the
23 end of tape number one. We're now going off the
24 record. The time is eleven o'clock a.m.

25 (Recess taken.)

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1 THE VIDEOGRAPHER: This is the
2 beginning of tape number two. We're now back on the
3 record. The time is 11:22 a.m.

4 BY MR. HECKMAN:

5 Q. Okay. Mr. Sellers, I believe we left off,
6 I was asking you questions about specific clients --

7 A. Yes.

8 Q. -- that you would have interacted with
9 while in corporate banking. Do you remember that?

10 A. Yes.

11 Q. Okay. And hopefully we don't have to
12 repeat the entire list of clients. My question to
13 you-- but I will, if you need to -- my question to
14 you is other than those specific assignments or
15 clients that we discussed before the break, can you
16 recall working on any other assignments for other
17 clients?

18 A. Yes. One in particular.

19 Q. And which is that?

20 A. That would be the City of Harrisburg, and
21 what I'm not completely sure of whether that -- the
22 City itself was the client or whether it was the
23 incinerator authority, but it doesn't matter.
24 They're -- they -- talk about hand in glove,
25 unfortunately, I'm sure the City of Harrisburg

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1 **might be working on something because things evolve,**
2 **you get on conference calls.**

3 Q. Meaning you don't know which particular
4 deal you might be working on at any given moment,
5 but you would have a general understanding of what
6 deals you're working on?

7 A. **Well, no, that's not really true. I mean,**
8 **you're working on transactions, you're part of a**
9 **team, you know what your place is in that team and,**
10 **you know, when you come in on any given day you know**
11 **you've got some things you've got to accomplish.**
12 **But, you know, you can be pulled into a conference**
13 **call, you can be pulled into a meeting, etcetera,**
14 **etcetera. There's -- it's sort of the give and take**
15 **of any corporate officer in an office.**

16 Q. And you mentioned you would know what your
17 place was on the team. Did your place on the team
18 differ depending on the team or did you for the most
19 part play the same role across the different deals?

20 A. **Well, a corporate banking officer is**
21 **generally, again, generally doing the same thing,**
22 **but it does vary to some extent according to the**
23 **transaction. The role in the state of California**
24 **is -- well, it's the same as the other transactions**
25 **insofar as at the level that you're -- you're making**

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1 recommendations, you're structuring a transaction
2 from the corporate banking side, you're structuring
3 that transaction from that corporate banking side,
4 you're -- in so doing, you're working with all the
5 parties on the team, but the parties on the team are
6 going to be different, it's very different for the
7 state of California compared to a prepaid gas
8 transaction, compared to the Richmond Redevelopment
9 Authority. And so depending on the team, the
10 transaction, exactly what you're doing is -- it's
11 going to differ, it's transaction driven, it's not
12 cookie cutter.

13 Q. Yeah, and I understand that. Maybe there's
14 a better way to --

15 A. **Okay.**

16 Q. -- get to --

17 A. **Yeah, feel free.**

18 Q. -- where I think I'm trying to go to here,
19 which is what you personally brought to the table
20 for these deals for your role in the deals. So not
21 so much as what does generally a corporate banking
22 officer do, but more what were you bringing to the
23 situation. And you've referenced a couple of times
24 your experience.

25 A. **Yeah.**

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1 A. **Yeah.**

2 Q. -- it's not as if he's standing over your
3 shoulder watching you do what you do or maybe he is.
4 I don't know. That's what I'm trying to get a sense
5 of, you know.

6 A. **Okay. No. Well, I see where you're going**
7 **on that.**

8 **Depending on the transaction -- okay.**

9 **Let's step back for a second and remember that I**
10 **think it's safe to say at that time, I was a**
11 **relatively highly experienced municipal finance**
12 **banker. Pat Shields was not a municipal finance**
13 **banker, he was a corporate banker and as such he had**
14 **his specialties in the corporate world, but he was**
15 **not a municipal finance -- public finance banker.**

16 **Okay. Ergo, I was entrusted to operate with a**
17 **degree of independence and responsibility for my**
18 **accounts. That's why really as I said they needed**
19 **an experienced banker there. However, at critical**
20 **times in a transaction, California being an**
21 **example -- oh --**

22 Q. Go ahead. I'll hit the switch.

23 A. **Is this a good opportunity for me to visit**
24 **the men's room? Is that okay or no?**

25 Q. Let's just finish the thing out. I just

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1 So, you know, there was no difference to
2 the extent that still Jake as the manager of the
3 team would come to me just as Alex would have come
4 to me to say I've got this transaction, let's talk,
5 can we talk about it, is -- it's with everything
6 else that you've got going on, can you take it on.
7 And that conversation would be the same.

8 Given my experience, I would make a point
9 to treat Jake the same way I would treat Alex
10 because he's in the same position. I undoubtedly
11 had to do a little bit more hand holding and explain
12 things maybe a little more detail, maybe he would
13 ask more questions. So you see, yes and no or no
14 and yes the way I presented it to you.

15 Q. Did you think Mr. Sigmund was qualified for
16 the manager position?

17 A. No.

18 Q. Why not?

19 A. Well, because he didn't have the depth of
20 experience in municipal finance for a portfolio of
21 that size and, you know, in my -- I've managed,
22 before RBC I've managed a team of bankers doing --
23 with a similar responsibility for a portfolio, an
24 even broader based portfolio in terms of types of
25 transactions and I was in various positions where I

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1 **hired bankers to join a team, more junior bankers,**
2 **and so I was in a position where I wrote -- you**
3 **know, every now and then I had to write a job**
4 **description, a job posting. And it's not hard --**
5 **having that experience, it's not hard to imagine**
6 **that you say to yourself, what would be the**
7 **qualifications for somebody in that position. And**
8 **Jake Sigmund would not, would not be a logical**
9 **candidate in that -- for that position plain and**
10 **simple.**

11 Q. Do you know who made the decision to bring
12 Jake Sigmund into that position?

13 A. **No.**

14 Q. Do you know who made the decision to remove
15 Mr. Birr from that position?

16 A. **No.**

17 Q. Mr. Sigmund followed Mr. Birr, right?

18 A. **That's exactly right.**

19 Q. You mentioned that Mr. Sigmund had a very
20 narrow specialist or specialism --

21 A. **Specialty.**

22 Q. Specialty? That's it.

23 A. **Yes, yes.**

24 Q. Could you explain what you meant by that?

25 A. **Real estate.**

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1 Birr did not require -- Mr. Birr was not like a
2 sponge, he had the knowledge?

3 A. **Yeah, but Alex too would come to me too**
4 **because he didn't have the experience that I had.**

5 Q. All right.

6 A. **And, in fact, before I formally started in**
7 **corporate banking, I wrote a sort of a quick and**
8 **dirty assessment of something for Alex, and it might**
9 **have been prepaid gas. Alex I think was working on**
10 **one of the first prepaid gas.**

11 Now, I didn't have experience in prepaid
12 gas, but Alex was looking for a second opinion
13 because he was on the line to write something,
14 produce something. And I, again, drawing upon a
15 breadth and depth of experience, said, Alex, I'm --
16 I would be worried about this, I would look into
17 that more.

18 I think it was prepaid gas. I'm not a
19 hundred percent sure of that, but I remember that
20 that was something that in a way I sort of
21 volunteered to do because I -- my -- because I
22 hadn't actually started in corporate banking, I was
23 finishing up in group risk, but I had some capacity,
24 I said I'll do this to help the guy out.

25 Q. How did what you -- am I correct in

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1 understanding when I read the Amended Complaint that
2 you are not contending that your time with group
3 risk as an independent contractor was anything other
4 than as an independent contractor; is that correct?

5 **A. Correct.**

6 Q. Okay. And we can get to the details later,
7 but we have an independent contractor agreement
8 during your time in corporate banking, but despite
9 that agreement, your contention is you were really
10 an employee --

11 **A. Yes.**

12 Q. Is that correct?

13 So what differed between your time in group
14 risk and your time in corporate banking that leads
15 you to the conclusion that you were an employee and
16 not an independent contractor?

17 **A. Many things differed and we know the devil
18 is in the details. You know in the Amended
19 Complaint, I state a number of indicia if I can say
20 that, if I'm saying that right, of employment that I
21 believe clearly applied in my case in corporate
22 banking, but did not apply when I was in group risk.**

23 But let me try to sum it up. In group
24 risk, it was clearly project that I was working on.
25 **And there are a lot of ways of defining what -- I'm**

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1 sure what means a project and I guess we could
2 probably spend a few hours debating what's a
3 project. But let me try to sum it up in at least
4 one way and that is a project is something that the
5 regular employees within group risk would not do,
6 could not do and/or would not do because their
7 regular responsibilities and their -- yeah, their
8 regular responsibilities to start with would
9 preclude them from doing that. It's beyond their
10 regular responsibilities, it requires a kind of --
11 it's a project. It requires a kind of dedication to
12 a specific thing that is not part of their job
13 description. And so that's a project.

14 By no stretch -- this is a gratuitous
15 comment -- but by no stretch is what I did in
16 corporate banking a project, it is -- it is exactly
17 what a corporate banker as an employee does. And I
18 say that from my experience as a corporate banker in
19 other large banks doing the same kind of business.
20 It's not project oriented. You can isolate a deal
21 and you can call it a project if you want, but it's
22 not going to make it a project.

23 I mean, there are certain things that
24 are -- are the basic responsibilities and reflect
25 the basic assignments of a corporate banker. Do

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1 **corporate bankers work on projects? Yes, they do.**
2 **Do independent contractors do the work of corporate**
3 **bankers? Hmm, they probably shouldn't do that, not**
4 **really, they shouldn't do it, as I came to**
5 **subsequently understand.**

6 Q. You say they shouldn't do it. Why
7 shouldn't they do it?

8 A. **Well, because there's a point when an**
9 **independent contractor crosses the line and becomes**
10 **an employee. In that sense they shouldn't do it.**

11 You know, let me -- can I -- let me make
12 the banal comment, if it looks like a duck and it
13 quacks like a duck and, you know, and it walks like
14 a duck, it probably is a duck. I'm sorry, but allow
15 me to make that.

16 Q. No. That's all right.

17 A. **But it applies -- it applies. And anybody**
18 **who knows what corporate banking and what corporate**
19 **bankers do and they look at the transactions that I**
20 **worked on and said, okay, is this the work of**
21 **corporate banking or is this the work of an**
22 **independent contractor, I'm pretty confident they**
23 **would say it's the work of a corporate banker. And**
24 **that's summing up and generalizing all those little**
25 **indicia that we might look at.**

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1 Q. So in your mind or in your theory and your
2 explanation, what you've just described to me, if
3 your work in corporate banking was more project
4 orientated, you would not have considered yourself
5 an employee?

6 A. **Yeah, of course, of course. We wouldn't be**
7 **sitting here.**

8 Q. It's our five-minute warning.

9 In your experience as a corporate banker,
10 so prior to --

11 A. **Yes.**

12 Q. -- your engagements at RBC, had you ever
13 worked with an independent contractor?

14 A. **Yes, umm-hmm.**

15 Q. And were those -- your experience in
16 observing those other independent contractors' work,
17 were they working solely on the types of projects,
18 quote-unquote, that you've described?

19 A. **Honestly, I can think of one example that**
20 **was clearly a project.**

21 Q. That was clearly a project?

22 A. **No mistake about it.**

23 Q. Have you in your personal experience ever
24 come across an independent contractor engaged to
25 work on a -- something other than what you would

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1 I point out that the bank, the defendants, Patrick
2 Shields in particular --

3 Q. And Mr. Shields is not a named defendant
4 though, correct?

5 A. That's correct. You are correct.

6 Should I refer to -- can I refer to Mr.
7 Shields or should I refer to the defendants? It
8 depends on the context.

9 Q. Well, I think it depends on the context.

10 A. Okay. Correct me if I get it wrong.

11 Q. Okay.

12 A. It was Mr. Shields in particular who is, of
13 course, a member of the bank, an employee of the
14 bank had represented to me from the outset that I
15 would be hired as a regular employee and that I
16 would be valued for my expertise and my depth and
17 breadth of experience, etcetera, etcetera. And that
18 initially for reasons that are -- that I go into
19 detail in the Amended Complaint about, that I would
20 not be -- I could not be hired as a regular employee
21 at the very beginning, however, in the interest of
22 filling their need to have an experienced person
23 there and in the interests -- in my interest of
24 having a, quote-unquote, seamless transition that I
25 would -- a way would be found I should say to -- for

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1 me to start working right away after my contract
2 ended with group risk, to start working right away
3 in corporate banking.

4 But, explicitly, it was explicit that it
5 was just a matter of time, believed to be within
6 that first contract period and I believe as I recall
7 initially discussed to be within a matter of weeks
8 that my employment would be regularized. I remember
9 specifically talking about how if the contract term
10 was three months, how if the okay -- the go aheads
11 and the green lights were all given short of that
12 period of time, how would that -- how would that
13 contract term affect it and, of course, we could
14 just agree to tear it up and throw it out.

15 Q. And these were discussions with?

16 A. **Patrick Shields.**

17 Q. Patrick Shields.

18 Was anyone else involved in these
19 discussions?

20 A. I'm trying to remember if Steven Walker was
21 part of those -- I don't believe Steven Walker was
22 part of those discussions, but I can't recall that.
23 We certainly talked about how we would proceed and
24 the possibility at that point with Steven Walker,
25 the possibility that a contract might be needed to

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1 had as large of a -- I don't believe he had as large
2 of a diversified portfolio -- although frankly I
3 can't -- I'm not qualified to speak to Jake Sigmund
4 responsibilities before.

5 Q. Are you aware of whether or not there was a
6 freeze, like a budget freeze put in place on
7 full-time equivalence --

8 A. No.

9 Q. -- at this time?

10 A. No.

11 Q. So then my question is did anyone discuss
12 with you the reasons why Jake was brought in to
13 replace Mr. Birr?

14 A. No.

15 Q. Okay. So continue. I didn't want to --

16 A. Yep. So as -- again, as time went on --

17 Q. In fact, I'm sorry. I'll cut you off.

18 A. Go ahead, go ahead, go ahead. That's okay.

19 Q. Did you approach Mr. Shields about the
20 hiring of Mr. Sigmund?

21 A. Yes.

22 Q. Okay.

23 A. Well, I asked the question --

24 Q. Okay.

25 A. -- you know, what does this mean for me.

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1 Q. Yes.

2 A. And in the situation I was in, and indeed
3 from the very beginning in the discussions with
4 corporate banking before I started in corporate
5 banking, it's needless to say that there's a certain
6 amount of trust that's required on both parties.
7 And as we moved through time in corporate banking
8 and I would ask that question, are we on plan, are
9 we on track, you know, I had to -- I felt like I
10 needed to be careful to not suggest that there was
11 anything less than trust. We were co-workers. We
12 worked together very closely.

13 So did I ever say what the hell, I mean,
14 why wasn't I hired for that position? No. All I
15 needed to know was from my supervisor, Pat Shields,
16 that we were still on plan for a permanent position.
17 For all I knew, if somebody like Jake Sigmund with
18 his experience was hired into that position, it
19 could be that the bank had an even more senior
20 position in mind for me.

21 Q. And nobody --

22 A. That's what I was waiting for, so....

23 Q. And nobody told you that specifically?

24 A. Absolutely not.

25 So but what I'm saying is therefore, you

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1 know, the question pressing that point too hard at
2 that point seemed to me to be impolitic for right or
3 wrong and certainly could -- I ran the risk of
4 suggesting that there was less than complete trust
5 on my part.

6 Q. Okay.

7 A. And I had no reason to do that.

8 Q. After Mr. Sigmund was brought on board --

9 A. Yes.

10 Q. -- were there any open positions that were
11 ever posted in the municipal finance or corporate
12 banking group that you could have applied to?

13 A. No, no.

14 Q. Did you ever, in fact, apply for a position
15 after Mr. Sigmund was brought on board?

16 A. Let me point something out. Okay. The
17 municipal finance team is very small and I am --
18 although within that space, I have broad experience,
19 it still was within the municipal finance arena, and
20 at my level, the appropriate position would have
21 been the head of that group or if the bank created
22 some other separate position that was -- was
23 appropriate for my level of experience, then it
24 would have been something that no doubt I would have
25 applied for.

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1 Q. Was that appropriate position other than
2 the one filled by Mr. Sigmund ever created while you
3 were there?

4 A. **Not that I'm aware of.**

5 Q. Okay. So back to the beginning of this
6 line of questioning --

7 A. **Yeah.**

8 Q. -- which was connecting the dots --

9 A. **Yeah.**

10 Q. -- all right --

11 A. **Yes, right.**

12 Q. -- to use your phrasing, what were the
13 dots?

14 A. **Well, the dots were the repeated
15 representations that I would be hired into a
16 permanent position, an appropriate permanent
17 position and the fact that that continued -- that
18 was -- that never happened over -- over several
19 extensions of the contract, the fact that a person
20 in his 50s was let go, a much younger person was --
21 replaced him in his position --**

22 Q. In that respect, you're referring to Mr.
23 Birr and Mr. Sigmund?

24 A. **Absolutely.**

25 Q. Okay.

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1 A. Okay. At one point, and again, the -- the
2 import of it certainly wasn't immediately apparent
3 to me, but when Pat Shields informed me that, in
4 fact, my -- the contract that I was in would be
5 my -- at that time in February -- January, February,
6 I forget exactly when, would not be extended and I
7 asked why and he -- his answer was that the bank had
8 decided instead to hire more junior people.

9 Q. Do you remember exactly what he said?

10 A. That's pretty much it, he would -- the bank
11 would be hiring more junior people.

12 Q. Did he use the phrase "junior people?"

13 A. Yes, yes, he did use the phrase "junior
14 people."

15 Q. And at the time, what did you understand
16 that to mean?

17 A. Well, junior people means several things.
18 I mean, if I can tell you exactly -- I couldn't tell
19 you exactly how I reacted, but junior people
20 certainly implied to me younger people. In theory
21 they could hire somebody older than me who is, in
22 fact, junior, but that would not be likely.

23 Junior people, if we're going to speak
24 realistically, implies a younger person than me.

25 Q. Let's back up one second.

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1 and the compensation that would presumably reflect
2 the level of responsibility, etcetera, etcetera.

3 Q. In theory then, even an associate position
4 for some reason had with it the responsibilities
5 commensurate with what you would have been expecting
6 but was only compensated at a traditional associate
7 level would not have been an appropriate position
8 for you. I'm not saying one existed, I'm trying to
9 figure out --

10 A. This is getting way too hypothetical.

11 Q. -- that scale.

12 A. This is way, way too hypothetical.

13 Q. What type of compensation package would you
14 have expected or considered to be appropriate in
15 2008?

16 A. Well, I know what the bank was paying me at
17 that time to do what I was doing.

18 Q. Right.

19 A. And if they were going to pay me to
20 continue to do that type of work or maybe even give
21 me more responsibility, that would be a frame of
22 reference, a frame of reference.

23 Q. Would you have accepted less compensation?

24 A. I would have certainly considered less
25 compensation. I would have considered it. My

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1 interest being -- as you know, it's not just a
2 question of title and it's not just a question of
3 compensation, it's a question of managing one's
4 career and making sure that the decision makes sense
5 in terms of where you are in your career. And I
6 believe up to that point, I'd managed my career
7 carefully enough that I was either assuming more
8 responsibility with each move or I was diversifying
9 my responsibility, which in the long run could be
10 helpful.

11 So the question of what makes a position
12 acceptable or unacceptable is a function of all of
13 those things, not just simply title, not just simply
14 compensation.

15 Q. But the ultimate goal to move your career
16 at least laterally or forward, but certainly not
17 backwards?

18 A. **Naturally.**

19 Q. Right. Okay. I think I get it.

20 Are there any other dots, when I asked you
21 what were the dots and we've talked about, we've
22 enumerated several dots. Are there any other dots?

23 A. **The intangible dot. Okay.**

24 Q. The ever illusive intangible dot.

25 A. **The intangible -- yeah, I have to say no,**

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1 **that indicate that are not.**

2 **Q.** Umm-hmm.

3 Any other dots? We'll continue with the
4 analogy?

5 **A.** **Not that I can think of. If I think of any**
6 **others, I'll mention them.**

7 **Q.** Are you seeking emotional distress damages
8 in this lawsuit?

9 **A.** **Yes.**

10 **Q.** What emotional distress are you suffering?

11 **A.** **Well, when you lose your job and your**
12 **career is ended, all right, and you lose your**
13 **primary source of income, and you then, in order to**
14 **pay your bills, have to draw down your retirement**
15 **funds and, you know, and you have all the financial**
16 **stress that is -- goes along with that, that by**
17 **definition causes emotional distress as implications**
18 **for your family, for you and for your family.**

19 **Q.** How has your emotional distress manifested
20 itself?

21 **A.** **I'm not sure what you're asking me.**

22 **Q.** I'm asking you for a manifestation of your
23 emotional distress, how is it affecting you
24 physically or mentally.

25 **A.** **Well, living with stress, financial stress**

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1 all the time --

2 Q. Okay.

3 A. -- figuring out how to pay bills, monthly
4 bills, figuring out how to pay a mortgage, figuring
5 out how to make the property tax payment quarterly
6 that comes up, unfortunately, New Jersey's pretty
7 high property tax. Lucky the folks in Pennsylvania.

8 Q. Have you sought medical treatment for your
9 emotional distress?

10 A. The answer's no.

11 Q. When did the emotional distress begin?

12 A. I would say fairly early on when I
13 recognized the -- the difficult position that I was
14 being put into. And by that I mean that I was led
15 to believe that I had a -- had some -- had security
16 as it were in the form of a regular position with
17 RBC, reinforced by a lot of things, some of which
18 we've touched on. And then to, you know, to
19 describe -- to put it this way might be best and
20 that is to have the rug pulled out from underneath
21 you and to find yourself at my age at that time in a
22 not exactly the best market. You know, you didn't
23 have to be -- have to be in that position before to
24 realize it was a very bad position to be in and I
25 would say that distress started pretty early on --

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1 Jersey?

2 **A.** **Yes.**

3 Q. And then did you have any engagements with
4 Risk Management prior to your engagement by RBC in
5 their --

6 **A.** **Group risk.**

7 Q. -- group risk?

8 **A.** **No.**

9 Q. Since your engagement or Risk Management's
10 engagement with corporate banking, has Risk
11 Management had any other engagements?

12 **A.** **No.**

13 Q. During the time that Risk Management was
14 engaged by corporate banking, there was also an
15 engagement of Risk Management by Credit Suisse?

16 **A.** **Securities.**

17 Q. Securities.

18 **A.** **Exactly, yes.**

19 Q. Approximately how long was that engagement?

20 **A.** **I'll tell you exactly how long it was.**

21 **Three months.**

22 Q. Three months.

23 **A.** **It was a three months contract.**

24 Q. And during those three months, Risk
25 Management was also engaged my RBC corporate

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1 banking?

2 **A.** **Yes, yes.**

3 Q. Other than during that time period of 2008
4 while you were engaged and early '09 while you were
5 engaged -- while Risk Management's engaged by RBC
6 corporate banking, other than Credit Suisse is there
7 any other entities that engaged Risk Management?

8 **A.** **No.**

9 Q. Okay. Do you still hold Risk Management
10 out as an entity to be engaged?

11 **A.** **It exists to the extent an opportunity**
12 **would come along. The problem I described for**
13 **employment, I really -- you know, to be honest with**
14 **you, I was referring more generally in finding**
15 **relevant work. I mean, I would take work now as I**
16 **would at any time in the past five years, whether it**
17 **was as an independent contractor or as an employee.**

18 Q. And do you have a LinkedIn page?

19 **A.** **Yes.**

20 Q. And the LinkedIn page lists Risk
21 Management?

22 **A.** **Yes, oh, yeah.**

23 Q. Did Risk Management ever have an insurance
24 policy?

25 **A.** **No.**

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1 Q. You are.

2 A. Right.

3 Q. And I'm making sure that --

4 A. Yes.

5 Q. -- you actually did that?

6 A. It -- does my signature mean what it
7 implies?

8 Q. Yes.

9 A. Yes.

10 Q. Good. Good.

11 Did you ever apply for New York state
12 unemployment benefits?

13 A. I spoke with them, but did not.

14 MR. HECKMAN: All right. We're at the
15 end of the tape so we'll take a break here.

16 THE VIDEOGRAPHER: We're at the end of
17 tape number three. We're now going off the record.

18 The time is 2:20 p.m.

19 (Recess taken.)

20 THE VIDEOGRAPHER: This is the
21 beginning of tape number four. We're now back on
22 the record. The time is 2:32 p.m.

23 Q. Mr. Sellers, are you claiming retaliation
24 in your lawsuit?

25 A. Yes.

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1 **A.** **Yes.**

2 **Q.** Right?

3 Can you tell us what Exhibit 3 is?

4 **A.** **Well, Exhibit 3 is a letter from the EEOC**
5 **to RBC Capital Markets saying that they view that**
6 **letter, kind of repeating what you just said, but**
7 **they view that letter as retaliation against the**
8 **charging party, which is me personally, and**
9 **furthermore, it, as they say here, strongly urges**
10 **the respondent to withdraw the threat contained in**
11 **this letter.**

12 **Q.** Okay. And have you seen Exhibit 3 before?

13 **A.** **Yes.**

14 **Q.** And, in fact, I believe it was part of not
15 the specific copy in front of you because that's
16 Bates stamped with an RBC number at the bottom, but
17 it was part of the materials that you produced --

18 **A.** **Yes.**

19 **Q.** -- as the EEOC file?

20 **A.** **That's correct, that is correct.**

21 **Q.** And did RBC, in fact, withdraw its threat
22 contained in the February 5th letter which is
23 Exhibit 2?

24 **A.** **From what I understand from the EEOC file,**
25 **that a -- I don't know if you're about to hand me**

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1 **that letter. I'm going to guess -- I'm going to**
2 **guess you're going to hand me a letter that says**
3 **that they have no intention of carrying through on**
4 **the threat.**

5 **Q.** Well, are you aware of the existence of
6 such a letter?

7 **A.** **Yes, it's part of the EEOC file that I gave**
8 **you guys.**

9 **Q.** And you've seen that letter before?
10 **A.** **I have indeed.**

11 **Q.** All right. Well, then let's mark that
12 letter.

13 (Exhibit Sellers 4, letter dated
14 June 8, 2011, was marked for identification.)

15 **THE WITNESS: Thank you.**

16 **Q.** And, Mr. Sellers, you've been handed what
17 has been marked as Exhibit 4?

18 **A.** **Yes.**

19 **Q.** Please take your time to review. And my
20 question to you will be --

21 **A.** **Yes.**

22 **Q.** -- is this the letter that we were just
23 referring to?

24 **A.** **It is indeed. That's it.**

25 **Q.** All right. Has RBC indicated to you any

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1 change in its position referenced or reflected in
2 Exhibit 4?

3 **A. With respect to this specific threat, no.**

4 Q. Okay. Have any, in your opinion, other
5 threats been made since the receipt of Exhibit 4?

6 A. What I would say, as I said before, it has
7 the same effect on me and feels the same way is the
8 threat to seek to recover -- the defendants seeking
9 to recover their legal expenses for the litigation
10 from me that is from the plaintiff's point of view
11 an economic threat that could be as devastating, if
12 not more devastating. So in that sense, they're
13 both threats to me.

14 Q. Well, since June 28th, 2011, which is the
15 date of the letter in Exhibit 4 --

16 A. **Yes.**

17 Q. -- has RBC or anyone on RBC's behalf made a
18 demand or request of you to reimburse RBC for its
19 costs involved in this litigation?

20 A. **No, not a demand. You said a demand,**
21 **right?**

22 Q. A demand or a request.

23 A. **Yeah. No, not a request or a demand.**

24 Q. Why the --

25 A. **But this is -- neither of these letters are**

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1 Federal Rules of Civil Procedure?

2 A. I believe it's the latter. I'm sure that
3 it's not the former and I believe it's the latter.
4 Whether it arises out of other things other than the
5 Federal Rules of Civil Procedure, I can't tell you.

6 Q. All right. And just so we're clear, I
7 think we're clear, but just so we're clear,
8 since the initiation of this litigation or even
9 June 28th, 2011 --

10 A. **Yes.**

11 Q. -- have you personally received or has Risk
12 Management received a specific demand for the
13 reimbursement of its -- of RBC's legal costs or fees
14 in this litigation?

15 A. **No, no.**

16 Q. Have you received or has Risk Management
17 received since those time frames any correspondence
18 or threats or communications indicating to you that
19 RBC was reserving its rights under the contract with
20 Risk Management to seek the recovery of costs and
21 fees in this litigation?

22 A. **No.**

23 Q. Okay. Do you confer with anyone to assist
24 you in this litigation?

25 A. **No. I wish I could.**

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1 **in corporate banking in Toronto, the overall head of**
2 **group corporate banking.**

3 Q. And who was that?

4 A. **Patti Perras Shugart.**

5 Q. Other than that change, do you have any
6 facts to suggest?

7 A. **Let me think if there were other facts, any**
8 **changes.**

9 **I don't recall any other -- any other**
10 **changes. That certainly was the -- a key change in**
11 **the management hierarchy of corporate banking.**

12 Q. Do you think Mr. Shields was evil-minded
13 towards you?

14 A. **Pardon me.**

15 Q. I'll take that probably as no.

16 A. **Could you define evil-minded, please?**

17 Q. No, no, I won't.

18 A. **Could you define evil-minded?**

19 Q. Are you seeking punitive damages in this
20 litigation?

21 A. **Yes.**

22 Q. Okay. What conduct do you consider gives
23 rise to the punitive damages?

24 A. **You know, I'm sorry, but I don't know that**
25 **I can answer that. And I'm going to have to -- I**

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1 hate to -- to fall back on this, but I really do
2 feel as a pro se litigant --

3 Q. Right.

4 A. -- I couldn't answer that off the top of my
5 head --

6 Q. Let me --

7 A. -- without doing some homework.

8 Q. Let me stop you there.

9 A. I find myself in this position every now
10 and then.

11 Q. I'm not asking you --

12 A. Yeah.

13 Q. -- for a legal conclusion, I'm not asking
14 for your legal argument --

15 A. Thank you.

16 Q. -- I'm asking you as a layperson --

17 A. Yes.

18 Q. -- because I would ask this question
19 whether you were pro se or not.

20 A. Yeah.

21 Q. What happened to you --

22 A. Yes.

23 Q. -- that you feel gives rise to punitive
24 damages? So when you --

25 A. Okay. Again, allow me to again to admit

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1 **that my use of words is not going to be as precise**
2 **as counsel's use of words, but I believe looking at**
3 **all and thinking real hard over a number of years**
4 **about everything that went on, I believe that the**
5 **actions of the defendants, and we can -- setting**
6 **aside who the individuals are -- was willful, okay,**
7 **was willful and it caused me significant harm.**

8 **All right. Now, whether in -- in your**
9 **terms or in terms that the court will accept or**
10 **recognize, that is a basis for punitive damages, I**
11 **don't know the answer to that. Okay?**

12 **Q.** Let me ask you this --

13 **A.** **So I can't -- I can't really -- I can't**
14 **really answer in any kind of confident way your**
15 **question.**

16 **Q.** Are there any factual circumstances or
17 events that happened to you that are either -- that
18 are not described in the Amended Complaint or at
19 some point in your testimony today?

20 **A.** **I'm sorry. Say that again.**

21 **Q.** Umm-hmm.

22 **A.** **It's an important question.**

23 **Q.** Are there any factual circumstances that
24 give rise to this lawsuit that you would consider to
25 be facts and circumstances relevant to this -- to

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1 age?

2 **A.** Well, there's more than the discrimination
3 claim, right? There's also the misclassification --

4 **Q.** Yes, I understand.

5 **A.** -- claim, right? Okay.

6 **Q.** I'm asking based on age.

7 **A.** Yes, I do.

8 **Q.** And other than what we've talked about
9 today and other than what's in the Amended
10 Complaint, there are no other critical, important
11 contributory facts to that? That's why I asked
12 that.

13 **A.** You will be the first to know if I uncover
14 anything.

15 **Q.** Right. Okay.

16 **A.** I believe I'm duty bound to do that.

17 MR. HECKMAN: Bless you.

18 THE WITNESS: Bless you.

19 **Q.** During your time at corporate banking, did
20 you receive the formal performance reviews like the
21 regularized employees did?

22 **A.** No.

23 **Q.** Did you receive a paycheck like the
24 regularized employees did?

25 **A.** No.

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1 Q. In fact, you submitted invoices, correct?

2 A. **Yes.**

3 Q. Did you receive during that same time
4 period paid vacation days?

5 A. **No.**

6 Q. Paid sick days?

7 A. **No.**

8 Q. How did you keep track of the hours that
9 you worked each day?

10 A. **Daily.**

11 Q. I'm sorry?

12 A. **Daily.**

13 Q. But how did you do it? Did you have a --

14 A. **I'm trying to think of it. I maintained**
15 **a -- I'm going to guess I had a legal pad, that's**
16 **what I'm sort of picturing and I wrote down every**
17 **day exactly what my hours were exactly.**

18 Q. Did you bill in any kind of increment?

19 A. **In any kind of increment? I'm sorry. What**
20 **does that mean?**

21 Q. Like a quarterly, quarter hour, a tenth of
22 an hour, a half hour?

23 A. **Let me think about that. You know,**
24 **probably in a sort of an unself-conscious way, in**
25 **other words, I probably wouldn't charge for 15**

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1 minutes -- I don't know if I got down to 15 or -- 15
2 minutes or half hour increments in a day. Do you
3 have --

4 Q. I believe I've seen invoices with 15
5 minutes.

6 A. Yeah. So then it would have been 15
7 minutes and in all likelihood -- I'm a pretty
8 scrupulous person, believe it or not and in all
9 likelihood I would have rounded to the nearest 15
10 minutes, sometimes down, sometimes up, and I'm
11 pretty careful about that kind of thing.

12 Q. When you were informed that your contract
13 would not be renewed again --

14 A. Yes.

15 Q. -- did you look to see if there were any
16 other opportunities at RBC for you?

17 A. Well, this is going to be like a response I
18 gave before, and that is the municipal finance
19 banking space as it were is fairly small. I'm not
20 sure how such an opportunity would exist without me
21 being aware of it, number one.

22 Number two, the decision makers, if I could
23 use that phrase, would certainly be aware of any
24 opportunities in the municipal finance space and it
25 would be very odd for Pat Shields to come up to me

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1 **these -- if you lived through and accepted these**
2 **claims, by definition, you have a personal problem**
3 **with Mr. Shields.**

4 Q. I don't know. That's why I asked.

5 A. **Well, I mean, I'm just saying.**

6 Q. Some people can separate their professional
7 lives from their personal lives. I don't know.

8 A. **I can separate my -- that's not your**
9 **question, can you separate your personal life from**
10 **your professional life.**

11 Q. No, my question was do you have a personal
12 problem with Mr. Shields?

13 A. **No, I would not say it's a personal**
14 **problem, no.**

15 Q. That was my question.

16 A. **No, no personal problem. I don't -- I**
17 **didn't interact with him at any kind of what I would**
18 **call personal level, I interacted with him at a**
19 **professional level. Now, professionally, you --**
20 **there are ethics involved with -- with how you**
21 **interact with people in the workplace.**

22 Q. Did you ever make any kinds of complaints
23 about Mr. Shields to the internal machinations at
24 RBC?

25 A. **No, no.**

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1 payment. As I recall, that's what I understood it
2 to be.

3 Q. And that's how that issue ended?

4 A. Yeah, I'm pretty sure that's the way it
5 ended. Yeah, yeah, I'm pretty sure. There was a
6 kind of a tail extension, 30-day extension.

7 Q. On the contract?

8 A. On the contract as I recall to wrap up
9 things. Oh, but I don't -- actually, I don't recall
10 if that was in connection with the -- that severance
11 discussion. I don't think it was. I think it was
12 because California needed to be resolved and
13 California was -- wasn't resolved until early
14 February. So -- and at that point, perhaps I should
15 have seen it coming. But at that point, the
16 extension that I would have expected to be three
17 months was shortened.

18 Q. To one month?

19 A. To one month.

20 Q. And that's when the California resolved
21 itself?

22 A. In early February, exactly, yes.

23 Q. All right. Let's take a break for a couple
24 minutes.

25 A. Okay.

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1 THE VIDEOGRAPHER: We are now going
2 off the record. The time is 3:18 p.m.

3 (Recess taken.)

4 THE VIDEOGRAPHER: We're now at the
5 end of tape number four. And we're now going off
6 the record to switch tapes. The correct time is
7 3:31 p.m.

11 MR. HEGRE: Hi. This is Jon Hegre. I
12 just want to notify you all that I'm not going to be
13 listening to the remainder of the deposition, so
14 I'll be heading out. Thank you for your time.

15 MR. HECKMAN: Thanks, Jon.

16 THE VIDEOGRAPHER: This is the
17 beginning of tape number five. We're now back on
18 the record. The time is 3:35 p.m.

19 BY MR. HECKMAN:

20 Q. Okay. Mr. Sellers, you have what's been
21 placed in front of you is marked Exhibit 5.

22 A. Umm-hmm.

23 Q. For the record, it's a series of documents
24 entitled Risk Management Consulting Services, LLC.
25 Agreement For Additional Consulting Services. The

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1 first page is dated February 6th, 2009. There are a
2 series of these Additional Consulting Services
3 Agreements going back to the --

4 **A. The master agreement?**

5 Q. Yeah. If you go backwards to the
6 August 7th, 2006 Risk Management Consulting
7 Services, LLC agreement, which begins at Bates stamp
8 number RBC 014276. Okay. This is reverse
9 chronological order.

10 And what we're going to do is a bit of
11 housekeeping. I just want to ask you some basic
12 questions. We'll flip through this exhibit while we
13 do so. So I ask you to start on that page that
14 begins the August 7th, 2006 document.

15 **A. I have it.**

16 Q. Okay. And for the record, can you identify
17 this document?

18 **A. Well, that's the master Consulting**
19 **Agreement. That's the initial -- I'll call it a**
20 **master Consulting Agreement.**

21 Q. Okay. And if you please take some time and
22 look through it and my question to you will be is
23 this a true and accurate copy of the master
24 Consulting Agreement as you referred to it?

25 **A. It appears to be. Wait, well hold on a**

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1 Q. Well, in fact it's a bold and underlined
2 line.

3 A. **Well said.**

4 Q. Cut.

5 Then moving forward in the packet --

6 A. **Yes.**

7 Q. All right. We have -- I come across a
8 December 20, 2006 Risk Management Consulting
9 Services, LLC Agreement For Additional Consulting
10 Services. It's a two-page document.

11 A. **Yes, yes. Okay. Risk Management
12 Consulting Services.**

13 Q. Okay. Turning to that second page --

14 A. **Yes.**

15 Q. -- under the Risk Management Consulting
16 Services, LLC signature block, is that your
17 signature?

18 A. **It is.**

19 Q. Okay. And is this a true and accurate copy
20 of the December 20, 2006 Additional Consulting
21 Services Agreement?

22 A. **It certainly appears to be.**

23 Q. And I'll refer to that as the Additional
24 Consulting Services Agreement, does that make sense
25 to you?

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1 **A.** **That's fine.**

2 **Q.** Okay. That way we can save the court
3 reporter from having to type it.

4 **A.** **Is that referring just to this one or is**
5 **that referring to all the Additional Consulting**
6 **Services Agreements?**

7 **Q.** Just to this one document.

8 **A.** **Okay.**

9 **Q.** All right. We're going to look at each one
10 and ask the exact same questions.

11 **A.** **Oh, okay.**

12 **Q.** I just want to make sure we have all the
13 correct copies.

14 **A.** **Okay.**

15 **Q.** All right. But before we do that, let me
16 ask you this, this, and perhaps the others, if it
17 pertains to all of the others, that's fine, just let
18 me know, but this Additional Consulting Services
19 Agreement incorporates the terms of the master
20 agreement?

21 **A.** **It should.**

22 **Q.** It should.

23 Is there anything in the December 20, '06
24 Additional Consulting Services Agreement to indicate
25 to you that it does not incorporate the terms of the

Page 190

1 August 7th, 2006 master agreement?

2 **A.** Do you want me to read through this whole
3 thing and --

4 **Q.** Well, the reason why I asked --

5 **A.** Yes.

6 **Q.** -- is because there was a bit of an
7 equivocation in your response --

8 **A.** Yes.

9 **Q.** -- of it should versus it does, so I want
10 to know if there's some reason for you to suspect
11 that it does not incorporate the master agreement?

12 **A.** I have no reason to believe that it does
13 not. However, to answer your question with complete
14 confidence and authority, I'd have to read it and
15 tell you that. But I have no reason to believe it
16 does not.

17 **Q.** Please take your time. Read it.

18 **A.** Okay.

19 **Q.** And then I will take your answer in
20 complete confidence.

21 **A.** Okay.

22 Okay. Now, your question?

23 **Q.** My question is does this Additional
24 Consulting Services Agreement incorporate the terms
25 of the master agreement?

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1 **A.** **Yes, I believe it does.**

2 **Q.** Do all of the subsequent Additional
3 Consulting Services Agreements incorporate the terms
4 of the master agreement?

5 **A.** **They should.**

6 **Q.** Do you have any reason to suspect that they
7 do not?

8 **A.** **I have no reason to suspect they do not.**

9 **Q.** Then we can circumvent this process.

10 **A.** **Okay.**

11 **Q.** Now, flipping forward another two pages --

12 **A.** **Oh, okay.**

13 **Q.** -- I see here or you tell me what you see
14 here. It should say February 1st, 2007.

15 **A.** **Okay.**

16 **Q.** Okay. Am I correct in that this is a
17 February 1st, 2007 Additional Consulting Services
18 Agreement?

19 **A.** **Indeed.**

20 **Q.** And turning to the second page, is that
21 your signature under the Risk Management Consulting
22 Services?

23 **A.** **Yes.**

24 **Q.** Please take your time and review this
25 document and my question to you is --

Page 192

1 **A.** **Yeah.**

2 **Q.** -- is this a true and accurate copy of the
3 February 1st, 2007 Additional Consulting Services
4 Agreement?

5 **A.** **I believe it is.**

6 **Q.** Please fast forward two pages. Do you see
7 March 22nd, 2007?

8 **A.** **Indeed.**

9 **Q.** Okay. My question is -- what's my
10 question? My question is is this the March 22nd,
11 2007 Additional Consulting Services Agreement?

12 **A.** **Sure looks it.**

13 **Q.** Okay. Turning to the second page, is that
14 your signature?

15 **A.** **It is.**

16 **Q.** Is this a true and accurate copy of the
17 March 22nd, 2007 Additional Consulting Services
18 Agreement?

19 **A.** **Appears to be.**

20 **Q.** This is fun and exciting.

21 Please fast forward two pages.

22 **A.** **Yes, yes.**

23 **Q.** Is that your -- is this a true and accurate
24 copy of the June 29th, 2007 Additional Consulting
25 Services Agreement?

Page 193

1 **A.** **I believe so.**
2 **Q.** Is that your signature on the second page?
3 **A.** **Indeed.**
4 **Q.** Please fast forward two more pages.
5 **A.** **Yep.**
6 **Q.** Is this a true and accurate copy of the
7 September 20, 2007 Additional Consulting Services
8 Agreement?
9 **A.** **As true as the previous ones.**
10 **Q.** And is that your signature on the second
11 page?
12 **A.** **Yes.**
13 **Q.** Then we get to December 28th, 2007.
14 **A.** **Yes.**
15 **Q.** Is this an -- and we're looking at the two
16 pages here?
17 **A.** **Umm-hmm.**
18 **Q.** Is this a true and accurate copy of the
19 December 28th, 2007 Additional Consulting Services
20 Agreement?
21 **A.** **I can't say for sure on this one.**
22 **Q.** Okay. And why not?
23 **A.** **Because it's not signed by me.**
24 **Q.** Is there a signed version of the
25 December 28, 2007 agreement?

Page 194

1 A. **There certainly is. There should be.**
2 Q. Okay.
3 A. **But I don't see the signature on this. It**
4 **is signed by Argyle Burke. I'm going to guess that**
5 **this signature page that I sent back was just**
6 **attached to this, but it's not here, so is this --**
7 **is this possibly a draft? I wouldn't think so**
8 **because I don't believe these things were changing**
9 **in midstream, so it has every appearance of being**
10 **correct.**

11 Q. Well, would -- in your experience in
12 negotiating these contracts with RBC, would Argyle
13 Burke sign draft agreements?

14 A. **He could certainly signed an agreement and**
15 **miss something that I then bring to the attention of**
16 **the bank, which causes it to be amended. This is**
17 **not signed by Argyle Burke, this is signed for**
18 **Argyle Burke, so we can't know that Argyle Burke**
19 **actually looked at this document at all.**

20 Q. You can't know that he didn't?

21 A. **Pardon me?**

22 Q. You can't know that he did not either?

23 A. **That's the other side of the coin.**

24 Q. My question though was --

25 A. **Yeah.**

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1 Q. -- in your experience in negotiating these
2 contracts --

3 A. **Yes.**

4 Q. -- did you ever receive one signed by
5 anyone on behalf of RBC that was then subsequently
6 amended because it was a draft?

7 A. **I don't recall. I don't recall having to**
8 **do that and I think it's somewhat unlikely because**
9 **these -- these agreements continued through time.**
10 **However, let me just say that, okay, this is**
11 **December 28, 2007, this is still within group risk**
12 **management.**

13 Q. Correct.

14 A. **I don't recall a change in the assignment.**
15 **However, I would note something else too. There is**
16 **no Appendix A to this, so there's another thing**
17 **that's missing. Is it possible that the term's**
18 **somehow in there? I don't know. You're looking for**
19 **a definitive answer and I'm saying it's not signed.**
20 **I don't see an Appendix A, ergo, I'm not going to**
21 **give you a definitive answer.**

22 Q. That wasn't my question.

23 A. Oh.

24 Q. My question was in your experience in
25 negotiating these contracts with the bank, have you

Page 196

1 ever received one signed by the bank that was only a
2 draft?

3 **A.** That could be. I don't know the answer to
4 that. It could be. They're all a draft until I
5 sign them. If there was a change, as I said, if
6 there was a change in the Appendix --

7 **Q.** Right.

8 **A.** -- it would be submitted to me as a
9 draft --

10 **Q.** Right.

11 **A.** -- right, until I've had a chance to look
12 at it. Now, the bank may have --

13 **Q.** Very simple question, very simple question.
14 Can you recall ever receiving a contract signed by
15 the bank that was only a draft, signed fully
16 executed by the bank, whoever signed it?

17 **A.** I don't recall that.

18 **Q.** Okay. That's the question.

19 **A.** Yeah.

20 **Q.** All right.

21 **A.** I don't recall that. It doesn't mean it
22 didn't happen, but I don't recall.

23 **Q.** Right. It doesn't mean it happened or it
24 didn't happen, you just can't tell me definitively
25 with a recollection of it specifically occurring?

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1 **A.** **Yes.**

2 **Q.** Okay.

3 **A.** **I'll have to agree with that.**

4 **Q.** There we go. We're getting somewhere.

5 **A.** **We are slowly but surely.**

6 **Q.** Slowly but surely.

7 Now, fast forwarding again, you come to the
8 February 1st, 2008 --

9 **A.** **Yes.**

10 **Q.** Okay. You have three pages --

11 **A.** **Indeed.**

12 **Q.** -- correct?

13 **A.** **Yes.**

14 **Q.** Okay. And do we have here a true and
15 accurate copy of the February 1st, 2008 Additional
16 Consulting Services Agreement?

17 **A.** **It appears to be the case.**

18 **Q.** Okay. Is it your -- and --

19 **A.** **That's my signature. Yes, that's my**
20 **signature.**

21 **Q.** Okay. Yes, it's your signature?

22 **A.** **Yes.**

23 **Q.** Okay. All right. And to your
24 recollection, is this the first time that you
25 entered into an Additional Consulting Services

Page 198

1 Agreement that was no longer in Risk Management but
2 was with corporate banking?

3 **A. Group risk versus corporate banking.**

4 **Q. Group risk?**

5 **A. Yes, that's right.**

6 **Q. I apologize.**

7 **A. I'm Risk Management.**

8 **Q. Are there material differences in the terms**
9 **of this Additional Consulting Services Agreement**
10 **versus the ones that we have seen for group risk?**

11 **A. Absolutely.**

12 **Q. Okay. And you negotiated those changes in**
13 **the terms?**

14 **A. I negotiated them in effect. I mean --**

15 **Q. What do you mean?**

16 **A. Well, I'm trying to remember if there was**
17 **any real give and take or these terms were sort of**
18 **the terms that were given to me and said this is the**
19 **way it's got to work.**

20 **Q. Okay.**

21 **A. So I mean, negotiations involves a little**
22 **bit of a back and forth shall we say. And so I**
23 **mean --**

24 **Q. Do you?**

25 **A. -- these are the terms that we went forward**

Page 201

1 **because we at that point both want to do that.**

2 **So....**

3 Q. Okay. And does the February 1, 2008
4 agreement incorporate the terms of the August 7,
5 2006 master agreement?

6 A. **It should, it should. It ultimately has to**
7 **go back to the master agreement. It should --**

8 Q. Okay.

9 A. **-- if it works the way it's supposed to.**

10 Q. Signature.

11 I want to look now at the Appendix A for a
12 second, so the third page of that, the description
13 of the role section. Do you see that?

14 A. **Just a second.**

15 **Yep.**

16 Q. At the time, did that accurately reflect
17 the description of the role?

18 A. **All those things were part of what I did,**
19 **yes.**

20 Q. Okay.

21 A. **All those things were part of what I did.**

22 Q. All right. Then if we fast forward I think
23 three pages --

24 A. **Yep.**

25 Q. **-- we have an April 16, 2008 --**

Page 202

1 **A.** **Yep.**

2 **Q.** -- extension, Additional Consulting
3 Services.

4 **A.** **Yep.**

5 **Q.** Is this a true and accurate copy of the --

6 **A.** **Appears to be, appears to be.**

7 **Q.** And is that your signature on the second
8 page?

9 **A.** **Indeed.**

10 **Q.** And does the Appendix again reflect what
11 you were doing at the time under the Description of
12 Role?

13 **A.** **Yes, appears to be the exact same
14 description, yes.**

15 **THE WITNESS:** **Bless you.**

16 **MR. HECKMAN:** **Bless you.**

17 **Q.** Yes. I understand it appears to be the
18 exact same description, but is it still reflecting
19 what it was that you were doing at the time?

20 **A.** **In a Cliff Notes version of course.**

21 **Q.** Yeah, right.

22 **A.** **In a very superficial version, yeah, I did
23 all those things and then some.**

24 **Q.** Right.

25 **A.** **Yeah.**

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1 Q. If we can fast forward three pages, is this

2 a --

3 A. **We're looking at July 7th? Yeah.**

4 Q. -- true and accurate July 7th, 2008

5 Additional Consulting Services Agreement?

6 A. **Yes.**

7 Q. And is that your signature on the second

8 page?

9 A. **Yep.**

10 Q. And, again, we have the same description of
11 the role, the same --

12 A. **Yeah.**

13 Q. -- the reflection of what it was?

14 A. **In a very cursory sort of superficial way,**
15 **yeah.**

16 Q. I understand.

17 And if we go forward three pages --

18 A. **Yep.**

19 Q. -- is this a true and accurate copy of the
20 September 30, 2008 Additional Consulting Services
21 Agreement?

22 A. **Sure looks that way.**

23 Q. All right. Is that your signature on the
24 second page?

25 A. **Yes.**

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1 Q. If you look at the Description of Role in
2 the Appendix on this one?

3 A. **I see it.**

4 Q. All right. Is that your handwriting there?

5 A. **It is.**

6 Q. Okay.

7 A. **Yeah.**

8 Q. And does that read, "Note, colon, no longer
9 with the bank," and I believe it's referring to Alex
10 Birr?

11 A. **As Alex Birr is circled, yes.**

12 Q. Okay.

13 A. **In fact, it doesn't show there, but there's
14 a line from that little circle there going down to
15 that note.**

16 Q. Okay. And but for the -- if we were to put
17 Mr. Sigmund's name where it says, "Assist Alex
18 Birr," if we were to put Mr. Sigmund's name there,
19 would this then again be a description at a high
20 level of the role that you were performing, the
21 assignments that you were performing?

22 A. **Yeah, that's the same language, yeah.**

23 Q. Again, going forward three pages, is this a
24 true and accurate copy of the January 2nd, 2009
25 Additional Consulting Services Agreement?

Page 205

1 **A.** **It is, yes.**2 **Q.** And is that your signature on the second
3 page?4 **A.** **It is, yep, yep, yep.**5 **Q.** And the same question about the description
6 of the role at a high level, is that an accurate --7 **A.** **It hasn't changed, it hasn't changed, yep.**8 **Q.** Okay. Although I see here it's been
9 crossed out, Alex Birr has been crossed out --10 **A.** **Yes, it has and I've initialed that change.**11 **Q.** That's your initials.

12 Okay.

13 **A.** **Yeah.**14 **Q.** And in place of Mr. Birr, you've put Pat
15 Shields, correct? Is that what that says?16 **A.** **I don't believe that's my handwriting.**17 **Q.** No?18 **A.** **In that case, no. That is not my -- I**
19 **don't think so. I could be wrong.**20 **Q.** But if it's somebody else's handwriting,
21 you're initialling that it's okay --22 **A.** **Absolutely.**23 **Q.** -- to the right?24 **A.** **Absolutely.**25 **Q.** That's a DJS?

Page 206

1 **A.** **DJS, yes.**

2 **Q.** DJS.

3 If we go forward three pages, we come to a
4 February 6th, 2009?

5 **A.** **Yeah.**

6 **Q.** Is this an accurate copy of the
7 February 6th, 2009 Additional Consulting Services
8 Agreement?

9 **A.** **It does appear to be the case, yes.**

10 **Q.** And is that your signature on the second
11 page?

12 **A.** **It is, it is.**

13 **Q.** And here we have in the Appendix a
14 description of the role that now has the name
15 actually typed in Patrick Shields. Is again at a
16 high level this the applicable description of your
17 role?

18 **A.** **Right.**

19 **Q.** Okay. Am I missing any to your
20 recollection going forward from -- were there any
21 after February 6th, 2009?

22 **A.** **No, that's the last one because it --**

23 **Q.** Okay.

24 **A.** **-- it has an expiration date of**
25 **February 27th, 2009.**

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1 Q. Right. And that was it?

2 A. Umm-hmm.

3 Q. Were you aware at the time that you signed
4 this agreement, which is February 9, 2009, that it
5 would not be renewed again?

6 A. That's a very date specific thing. I
7 would -- hmm. Was I aware at that date?

8 Q. Yeah, when you signed it.

9 A. Okay. Here's -- here's the sequence of
10 events and we'd have to look at a calendar. The
11 crucial closing of the state of California occurred
12 on a Friday. And you have to bear with me on this
13 because I'm doing this from recollection. Okay?

14 Q. Umm-hmm.

15 A. And I was told by Pat Shields over the
16 phone on either Monday or Tuesday as I recall and I
17 think this is in the -- I know it's in the Amended
18 Complaint. Just give -- bear with me one second.
19 See if I can lay my hands right on it.

20 Q. You know what, while you're doing that --

21 A. Yeah.

22 Q. -- while you're doing that --

23 A. Yeah.

24 Q. -- let's mark the Amended Complaint as an
25 exhibit. I have it, so you can put that to the

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1 Sunday night, I signed it if it was given in
2 advance, but dated it for the -- for Monday because
3 that was the business day that I was going to be
4 delivering it, allowing that possibility. So I
5 can't say.

6 Q. Can you recall right now --

7 A. **Yes.**

8 Q. -- an actual occurrence of you signing one
9 of these contract extensions on a Sunday and dating
10 it for a Monday?

11 A. **No. It doesn't mean it didn't happen.**

12 Q. I didn't say that. Can you tell me
13 though --

14 A. **No.**

15 Q. -- a specific time of doing that? That's
16 all I'm asking.

17 A. **And my answer's the same.**

18 Q. It's no, right?

19 A. **No, I can't recall that.**

20 Q. Okay. Not to beat the bush --

21 A. **I think it's the dead horse.**

22 Q. Well, we'll keep our PETA friends happy.

23 A. **Okay.**

24 Q. Certainly no later than February 9th or
25 February 10th, 2009, you were aware that the

Page 214

1 contract was not going to be extended again?

2 **A.** Yeah. And I think it was the 10th is when
3 I was informed, at some point on the 10th.

4 **Q.** Do you have an ERISA claim in this lawsuit?

5 **A.** Yes.

6 **Q.** Okay. The ERISA claim, if I understand it,
7 is a claim for certain benefits governed by the
8 RBC's ERISA benefit plans; is that correct?

9 **A.** Correct, correct.

10 **Q.** Have you ever filed any type of claim with
11 the benefit plan administrators for those benefits
12 for which you are seeking?

13 **A.** No.

14 **Q.** Okay. Five minutes, I think we're done,
15 but I need five minutes or so to --

16 **A.** Cool.

17 **Q.** -- check stuff out. All right?

18 THE VIDEOGRAPHER: We're now going off
19 the record. The time is 4:17 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: We're now back on
22 the record. The time is 4:30 p.m.

23 MR. HECKMAN: All right. Mr. Sellers,
24 I have no further questions today.

25 I do just want to put on to the record that

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1

C E R T I F I C A T E

2

I, ELLEN V. LETCHFORD, a Certified Court
Reporter and Notary Public, do hereby certify that
prior to the commencement of the examination,

5

DAVID SELLERS

6

was duly sworn by me to testify to the truth,
the whole truth and nothing but the truth.

8

I do further certify that the foregoing is
a true and accurate transcript of the stenographic
notes of testimony taken by me at the time, place
and on the date hereinbefore set forth.

12

I do further certify that I am neither a
relative nor employee nor attorney nor counsel of
any of the parties to this action, and that I am
neither a relative nor employee of such attorney or
counsel and that I am not financially interested in
this action.

18

19

Ellen V. Letchford

20

ELLEN V. LETCHFORD, CCR, RPR, RMR, CRR

21

Certificate No. 30XI00081100

22

Date: October 13, 2013

23

24

25



EXHIBIT B

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Attn: Attorneys & Lawyers - Our Customers Need You! Get 10 Free Leads for New Clients Today!

David Sellers

Sole Proprietor at Risk Management Consulting Services LLC
Greater New York City Area Banking

Previous WestLB AG (formerly Westdeutsche Landesbank), The Sanwa Bank Limited, Chemical Securities, Inc./ Chemical Bank
Education Syracuse University - Maxwell School of Citizenship and Public Affairs

59 connections

www.linkedin.com/pub/david-sellers/3b/723/695/

Background

Summary

Senior level financial professional with over 25 years progressive experience and responsibility at major U. S. and overseas based financial institutions, more recently operating independently as a consultant with contracts with large global banks. Currently available for regular employment or consulting assignments in public finance banking, capital markets, risk management and/or non-bank financial institution counterparty risk management, or other work that will build upon as it challenges career path expertise, including:

- Managing risks of large diversified portfolios of credit and market limits/ exposures.
- Managing banking client relationships.
- Negotiating financial documentation.
- Structuring credit and liquidity enhancement facilities.
- Establishing credit policies and procedures and ensuring compliance with regulatory regimes and internal and external bank auditors.
- Designing, testing and implementing internal risk based models (i.e., Basel II) for large public finance portfolios.
- Hiring, training, mentoring and managing analysts and banking associates.
- Making presentations to senior management and other internal and external bank constituencies related to new product development and portfolio management.

Specialties: In addition to above:

- Traditional and structured public finance credit and market products, involving most types of tax-backed and revenue credits.
- Counterparty credit and market risk management of large portfolios involving non-bank financial institutions, including institutional funds, investment advisors, regulated and non-regulated/ hedge funds, etc., and products, such as repo/ reverse repo, securities lending, foreign exchange, redemption and subscription commitment facilities, etc.

Experience

Sole Proprietor

Risk Management Consulting Services LLC

July 2006 – Present (7 years 4 months)

Multiple seamless contracts within corporate banking, capital markets and risk management departments of a leading Canadian Bank, structuring and negotiating letters of credit and liquidity facilities and evaluating risk exposures, re-structuring a large syndicated facility for state commercial paper program; designed, tested and implemented Basel II compliant Internal Risk Based models for Public Sector Entities (2006-2009). Additional contract with NY branch of leading Swiss investment bank to evaluate the credit and market risks underlying values of large diversified portfolios of municipal bonds (2008). Note: Most recent institutional affiliation is outside of career path, as a Visiting Artist in the Visual Arts Program, Lewis Center for the Arts, Princeton University (fall semester 2010 – present).

Executive Director/ Team Head

WestLB AG (formerly Westdeutsche Landesbank)

People Similar to David



Constantine Boyadjiev 3rd
Founder & President at Calibra Consulting L...
Connect

Fast-track your career in just 10 months

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Columbia Journalism School

People Also Viewed



Pete Papageorgakis, CFA
Head of Product Development & Management



Glen Casey
Managing Director, Goldman Sachs Asset Management



George Hammond
Attorney, Author and Lecturer



Eileen North
Director at Portigon AG



Gary Perusse
Senior VP, Risk Management at Covanta Energy



Duncan Robertson
Executive Director at WestLB



James Winikor
Distressed Commercial Real Estate and Portfolio Management



Safiyah Spann-Brisbane
Vice President, Real Estate Legal

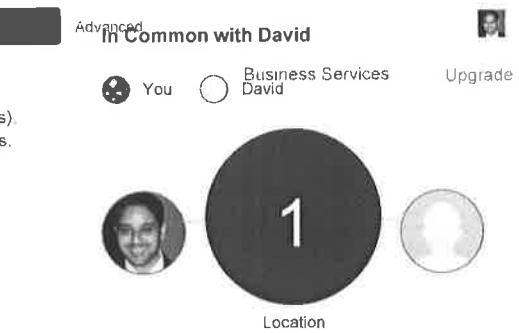


Eric Seward
Partner at Church Tavern Advisors, LLC



Edward Farrell
Executive Director at Morgan Stanley

1993 – 2006 (13 years)  Advanced Search for people, jobs, companies, and more...
Risk Manager and Team Head for large, diversified portfolios, including U. S. and Canadian Public Finance (\$17 B commitments), Insurance including financial guarantors (\$15 B), Institutional Funds/Investment Advisors/ regulated and non-regulated (hedge) funds (trading and credit limits for 3,000+ counterparties), U. S. Government Supported Enterprises (\$5 B investment and trading book positions). Wrote credit policies and risk management procedures for same. Hired, trained and managed analysts. Member of global committees to establish Basel II compliant internal rating models. Member of NY Branch Credit Committee.



Vice President/ Sr. Public Finance Officer

The Sanwa Bank Limited
1989 – 1992 (3 years)

Originated and negotiated letters of credit and liquidity facilities for public finance clients, analyzed financing structures, documentation and creditworthiness and coordinated inter-bank relationships for syndications and participations. Panelist at industry conferences.

Vice President and Team Manager

Chemical Securities, Inc./ Chemical Bank
1985 – 1988 (3 years) | New York City

Managed a team responsible for originating and structuring bond issues and private placements in mid-Atlantic states. Head of Public Finance Technical Group, managing a team responsible for product development, documentation and structuring negotiated bond issues, and credit and quantitative support for the Bank's underwriting and financial advisory clients. Designed and managed Louis Harris survey of financial advisory market. Represented Bank at industry related conferences. Completed PSA Public Finance Institute's Manager's Program, University of Michigan School of Business Administration.

Director of Tax-Backed Group/ Assistant Vice President

Financial Guaranty Insurance Company ("FGIC")
1984 – 1986 (2 years) | Greater New York City Area

Evaluated risks and hired and managed analysts in bond insurance underwriting of tax-backed financings in the primary and secondary markets. Established and implemented underwriting criteria and risk management policies for the then new company. Developed products and participated in regional new business initiatives.

Associate Investment Banker

Morgan Guaranty Trust Company of New York
1982 – 1984 (2 years) | Greater New York City Area

Financial advisor and investment banker for public authorities and other revenue bond issuers, coordinating bond and note financings, analyzing alternative financing structures, preparing and presenting new business proposals, determining eligibility for Bank underwriting, represented Bank and clients at public hearings.

Skills & Expertise

- 4 Capital Markets
- 3 Portfolio Management
- 2 Credit Risk

Education

Syracuse University - Maxwell School of Citizenship and Public Affairs

Master of Public Administration, Public Financial Management and Budgeting
1981 – 1982

Princeton University - Woodrow Wilson School for Public and International Affairs

Non-degree coursework completed in Urban Affairs and Domestic Policies

1978 – 1980 Search for people, jobs, companies, and more... Advanced

Graduate level courses (21 hours credited) completed in the University's Program in Continuing Studies.

Home Profile Network Jobs Interests Business Services Upgrade

Rider University
Bachelor of Arts, Political Science
1970 – 1974



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EXHIBIT C



ROYAL BANK
OF CANADA

One Liberty Plaza
165 Broadway
New York, NY 10006-1404
Telephone (212) 428-6200

August 7, 2006

Mr. David Sellers
Risk Management Consulting Services, LLC
24 East Prospect Street
Hopewell, NJ 08525
Tax Identification Number: 20-5184850

Risk Management Consulting Services, LLC
Consulting Agreement

Dear Mr. Sellers:

This letter ("Letter Agreement" or "Agreement") sets forth the terms under which Risk Management Consulting Services, LLC (the "Consultant") will act as a consultant to Royal Bank of Canada ("RBC" or the "Firm") and other members of the RBC Financial Group.¹ It is agreed as follows:

1. Consulting Services. During the period beginning **August 7, 2006** through **November 7, 2006** (the "Term") or until one of the parties exercises its right to terminate the Agreement pursuant to Section 3 below. The Consultant agrees to provide to RBC and other members of the RBC Financial Group consulting and related services as defined in **Appendix A** - (the "Consulting Services"). During the Term, specific assignments related to Consulting Services shall be determined by and communicated to the Consultant by **Andrew D. Brown** or such other person as may be designated by the Chief Operating Officer of RBC. The Term can be extended by mutual agreement of the parties in writing.

It is understood and agreed that the Consulting Services will be performed by **David J. Sellers** who will perform the Consulting Services in a professional manner conforming to generally accepted industry standards and practice and any other standards that may be agreed to in writing by the Firm and the Consultant.

The Consultant agrees that its employees will utilize the Firm's Project Tracking System (PTS) (if applicable) weekly in order to monitor assignments and allocate costs to business groups.

¹ For purposes of this Letter Agreement, the term "RBC Financial Group" includes the Firm, Royal Bank of Canada, RBC Dominion Securities, Inc., RBC Dominion Securities Limited, RBC Dain Rauscher Inc., RBC Dain Rauscher Wessels, RBC Dain Rauscher Corporation, RBC Capital Markets, RBC Capital Markets Corporation and each and all of their subsidiaries, affiliates, business units, agencies, groups, branches, associated companies, successors and assigns.

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
Page 2 of 8

The Consultant agrees to provide the Firm with appropriate work authorizations for its employees or independent contractors assigned to the Firm in compliance with the US Immigration and Reform Act.

It is expected that the Consulting Services will generally require the physical presence of the Consultant's employees or independent contractors at the Firm's offices in New York, NY or elsewhere in the United States and Canada, but may also include telephone conversations and other communications with Firm employees, consultants or vendors. RBC agrees to reimburse Consultant for legitimate business expenses associated with business travel. All expenses should be pre-approved prior to the expense being incurred.

2. Consulting Fee. In consideration for the Consulting Services, RBC shall pay the Consultant a fee of US\$150 per hour for each hour in which Consulting Services are rendered (the "Consulting Fee"). The Consultant agrees that its employees or consultants will not be paid for absences (vacation, holiday, illness etc.) and the invoice will be reduced accordingly to reflect such absences. It is also agreed that the Consultant will invoice the Firm for the Consulting Fee, based on actual days worked on a monthly basis, in arrears, and that it will submit with the invoices the Consulting Services performed during the billing period. The invoices shall be payable by the Firm within thirty (30) days from the date they are submitted.

3. Termination Rights. This Letter Agreement may be terminated by either party on fourteen (14) days written notice for any reason. In such event, unless otherwise agreed in writing, the Consultant shall render Consulting Services, and the Firm shall pay the Consulting Fee, through the effective date of termination and, except as expressly set forth herein, neither party shall have any further obligation under this Letter Agreement.

4. Additional Consulting Services. In addition to the Consulting Services, the Consultant may, from time to time, provide additional consulting and related services to the Firm and other members of the RBC Financial Group (the "Additional Consulting Services"). The nature of the Additional Consulting Services, the qualified individuals performing the Additional Consulting Services and the amount of the fee in consideration for the Additional Consulting Services (the "Additional Consulting Fee") shall be agreed to in writing by the parties.

Unless otherwise agreed to in writing by the parties, any Additional Consulting Services may be terminated by RBC or the Consultant on written notice for any reason, such termination to be effective on the date notice is given (or such other date as may be stated in the notice or agreed to in writing by the parties) with no further obligation on behalf of RBC or the Consultant except for any amount of accrued and unpaid Additional Consulting Fee. Except as expressly set forth in this paragraph or agreed to in writing by the parties, the Additional Consulting Services and any such person, consultant, contractor or subcontractor performing such shall be subject to the terms of this Letter Agreement.

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
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5. Nature of Relationship. During the Term, the Consultant will act as an independent contractor. No employment relationship is intended or will exist between the Consultant (or its employees or independent contractors) and RBC or any other member of the RBC Financial Group by virtue of this Letter Agreement or the Consulting Services or Additional Consulting Services, nor will this Letter Agreement or the Consulting Services or Additional Consulting Services be construed to establish a relationship between them as partners or joint venturers. Except as expressly authorized in writing, the Consultant may not assume any obligations or enter into any contracts on behalf of the Firm.

The Consultant understands that the Firm will not take any deductions of any kind from the Consulting Fee or Additional Consulting Fee and the Consultant acknowledges and agrees that it is solely responsible for any and all tax liabilities and withholdings with respect to its employees or independent contractors assigned to the Firm, including, without limitation, federal, state, local, social security and Medicare withholding taxes and unemployment and workers' compensation insurance. In addition, the Consultant is solely responsible for any and all employee benefits provided to its employees or independent contractors assigned to the Firm, and has informed such personnel that, as employees or independent contractors of the Consultant, they are not entitled to receive benefits of any kind from the Firm, and as a condition of accepting such assignment such personnel agree to execute now or in the future any and all forms confirming the waiver of such benefits as may be required under the various Firm benefit plans. The Consultant agrees to indemnify and hold the Firm harmless from any tax liabilities or employment benefit obligations arising from the payments made under this Letter Agreement. Should any such liabilities or obligations be assessed against the Firm, the Firm shall have the non-exclusive right to deduct any such assessment from any future Consulting Fee or Additional Consulting Fee due to the Consultant.

6. Insurance. The Consultant agrees to obtain and maintain insurance coverage throughout the Term in respect of the Consulting Services or Additional Consulting Services as deemed reasonable and appropriate by the Firm, and to provide satisfactory evidence of such insurance upon the request of the Firm. This insurance may include, without limitation, Worker's Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance and Fidelity Bond Insurance.

7. Confidential Information. During the Term, the Consultant will have access to information that is confidential and proprietary to RBC and other members of the RBC Financial Group ("Confidential Information"). Confidential Information means, without limitation, all business information or customer information disclosed by the Firm to the Consultant (and its employees or independent contractors) in connection with this Letter Agreement or otherwise, including without limitation, any transaction data, internal reports, studies, memoranda, correspondence, manuals, records, plans, organizational charts or other written, printed or otherwise recorded material produced by or for or belonging to RBC or any other member of the RBC Financial Group which relates to the Firm or other members of the RBC Financial Group or their respective clients, customers, directors, officers, agents or

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
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employees or which relates in any manner to their present or future business. Confidential Information shall also include the terms of this Letter Agreement.

Confidential Information shall not include any information which (a) at the date of its disclosure by the Firm is in the public domain or which subsequently enters the public domain other than through unauthorized disclosure by the Consultant (or its employees or independent contractors); or (b) was in the rightful possession of the Consultant (or its employees or independent contractors) prior to the time of its disclosure by the Firm to the Consultant.

Except as required in the performance of the Consulting Services or Additional Consulting Services, the Consultant agrees that all Confidential Information shall be held in strict confidence and that it shall take all steps reasonably necessary to preserve the confidentiality thereof. The Consultant shall limit the use of and access to the Confidential Information to only those of its employees or independent contractors whose responsibilities require such use or access, and shall advise all such persons, before they receive access to or possession of any of the Confidential Information, of the confidential nature of the Confidential Information and require them to abide by the terms of this Letter Agreement. The Consultant shall disclose the terms of this Letter Agreement only to those RBC employees who, for purposes of carrying out the terms of this Agreement, need to know such information. The Consultant shall be liable for any breach of this Letter Agreement by any of its employees or independent contractors who obtain access to or possession of any of the Confidential Information from or through the Consultant. Except as provided for herein, the Consultant agrees that it will not, during or after the Term, disclose Confidential Information to any person (other than in the performance of the Consulting Services or Additional Consulting Services) or use it for its benefit or that of any third party. Nothing herein shall prohibit the Consultant from disclosing Confidential Information in its possession in response to a lawful subpoena or compulsion of law, provided, however, that the Consultant shall promptly notify the Firm in writing of such subpoena or request as soon as possible and before disclosing any information and cooperate through all reasonable and legal means, at the Firm's expense, in any attempts by the Firm to prevent or otherwise restrict the disclosure of such information.

8. Intellectual Property. The Consultant covenants and agrees that the Firm (or its affiliates or nominees) is the sole and exclusive owner of all discoveries, developments, designs, improvements, inventions, innovations, processes, techniques, technologies, programs, know-how, works of authorship and data (whether or not registrable under copyright, trademark or patent statutes), patents, trade secrets, trademarks or proprietary information which the Consultant or its employees or independent contractors may make, conceive, develop, produce, learn, process or acquire, either individually or jointly with others, while providing the Consulting Services or Additional Consulting Services (collectively, "Inventions and Discoveries").

The Consultant hereby irrevocably assigns and agrees to assign to the Firm (or its affiliates or nominees) its entire right, title and interest in such Inventions and Discoveries.

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
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The Consultant agrees to take all reasonable actions and cooperate as necessary to protect and preserve the intellectual and proprietary rights in Inventions and Discoveries and further agrees to execute and deliver, and cause its employees and independent contractors to execute and deliver, any specific assignments or other papers and lawful documents that might be necessary to perfect the sole right, title and interest in the Firm (or its affiliates or nominees) in the Inventions and Discoveries, and execute and deliver, and cause its employees and independent contractors to execute and deliver, any and all papers and lawful documents required or necessary to obtain and maintain effective patent, copyright or other protection in the United States, Canada and any other country in the Inventions and Discoveries by the Firm (or its affiliates or nominees) during and after the Term of this Agreement and any subsequent agreements.

The Consultant agrees that no electronic files, backups, duplicates etc. or other property shall be kept off premises unless written permission is first received.

The Consultant represents and warrants that it has entered into such agreements with its employees or independent contractors as are necessary for it to be able to give effect to the covenants set forth in this Section.

9. Firm Policies. The Consultant agrees that it and each of its employees or independent contractors shall abide by all terms and conditions concerning all Firm policies as set forth in the Firm Me & RBC Web Site, Compliance Manual, Anti-Money Laundering Procedures and Code of Conduct, as if they were employees unless the Firm excludes the Consultant. Consultant acknowledges that the Firm, at its sole discretion, may at any time during the Term of this Agreement require the Consultant or any of the Consultant's employees to disclose certain personal information regarding such persons' interests in, and participation in transactions involving the purchasing and selling of, securities and financial instruments, including brokerage statements, and may monitor and restrict such activities after providing the Consultant with written notice of its intent to do so.

10. Firm Property. The Consultant agrees to deliver at the end of the Term, or at any other time on request by RBC, all property and equipment of RBC or any other member of the RBC Financial Group of any kind it may have.

11. Governing Law; Dispute Resolution. This Letter Agreement and any claims arising hereunder shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of laws. If any dispute should arise relating to this Letter Agreement, the interpretation of its terms or otherwise related to the Consulting Services or Additional Consulting Services, the parties agree and hereby acknowledge this as evidence of their intent to submit their dispute to arbitration before a panel of three (3) arbitrators at the American Arbitration Association in New York City as the exclusive forum. The parties hereby waive any rights to bring any actions for such disputes in any judicial or administrative tribunal and acknowledge such waiver as grounds for removal from any such tribunals. Notwithstanding the foregoing, for injunctive relief, it is agreed that

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
Page 6 of 8

any court of competent jurisdiction may also entertain an application by either party. The parties further agree that no demand for punitive or consequential damages shall be made in any such arbitration proceeding and that the arbitrators shall not have the power to award such damages in any proceeding. Any award of the arbitrators shall be final and binding, subject only to any right of appeal that may lie as a matter of law. Each party hereby waives its right in any event to a trial by jury.

12. Waiver. No failure by any party hereto at any time to give notice of any breach by the other party, or to require compliance with, any condition or provision of this Letter Agreement shall be deemed a waiver of a similar or dissimilar provision or condition at the time or at any prior or subsequent time.

13. Effect of Partial Invalidity. In the event that any provision or term of this Letter Agreement is held to be invalid, prohibited or unenforceable for any reason, such provision or term shall be deemed severed from this Letter Agreement, without invalidating the remaining provisions, which shall remain in full force and effect, provided that the severance of such provision or term would not render the remaining provisions inconsistent with the intent of the parties with regards to the matters contemplated under the Agreement.

14. Enforceability and Liability of Intended Beneficiaries. The members of RBC Financial Group other than RBC are intended third-party beneficiaries of this Agreement and shall be entitled to enforce all of the terms and conditions of this Agreement. Such intended beneficiaries shall not have any liability whatsoever in law or in equity for any act of omission of any party to this Agreement or such party's agents or subagents, and shall not be under any obligation to perform or carry out any duties unless otherwise agreed to in writing.

15. Binding Effect; Assignment. This Letter Agreement and all rights and obligations hereunder shall be binding upon and inure to the benefit of any successors in interest or assigns of the Consultant or the Firm. This Letter Agreement and the performance of any obligations hereunder may not be assigned, delegated or otherwise transferred by either party without the prior written consent of the other party.

16. Entire Agreement. This Letter Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements between the parties, whether written or oral, relating to the same subject matter. No modification, amendment or supplement to this Letter Agreement shall be effective for any purpose unless in writing and signed by each party.

Please indicate your acceptance of the terms of this Letter Agreement by signing and returning to me a copy of this letter.

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
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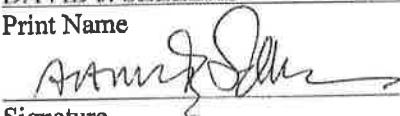
Very truly yours,

By:


Argyle I. Burke
Managing Director, Human Resources

ACCEPTED AND AGREED TO:

Risk Management Consulting Services, LLC

By: DAVID J. SELLERS
Print Name

Signature
CONSULTANT
Title
7 AUGUST 2006
Date

Mr. David Sellers
Risk Management Consulting Services, LLC
August 2, 2006
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APPENDIX A

Location: One Liberty Plaza, New York, NY

Assignment: to develop Ratings Criteria Papers for the Us Public Sector issuers.

Description of Role: Consultant will work with Andrew Brown, Zahra Afkari and others from Group Risk Management to develop at least 4 Ratings Criteria Papers for the US Public Sector issuers.

EXHIBIT D



One Liberty Plaza
165 Broadway
New York, NY 10006-1404
Telephone (212) 428-6200

December 20, 2006

Risk Management Consulting Services, LLC
Mr. David Sellers
24 East Prospect Street
Hopewell, NJ 08525
Tax Identification Number: 20-5184850

**Risk Management Consulting Services, LLC Agreement for
Additional Consulting Services**

Dear David:

Reference is to the August 7, 2006 letter agreement between RBC Capital Markets Corp. ("RBCCMC" or the "Firm") and Risk Management Consulting Services, LLC (the "Consultant") (the "Consulting Agreement"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Consulting Agreement. When fully executed, this letter shall constitute an agreement to provide Additional Consulting Services under the Consulting Agreement. It is agreed as follows:

1. During the period commencing **November 7, 2006 through January 31, 2007** or until one of the parties terminates this letter agreement pursuant to Section 4 of the Consulting Agreement, the Consultant agrees to provide to RBCCMC and other members of the RBC Financial Group Additional Consulting Services described in **Appendix A attached** (the "Consulting Services"). Specific assignments shall be determined by and communicated to the Consultant by **Andrew Brown**, or such other person as may be designated by the Firm. It is understood and agreed that the Additional Consulting Services will be performed by **David Sellers**, or such other qualified individual able to perform the Additional Consulting Services in a professional manner conforming to generally accepted industry standards and practice as may be agreed to in writing by the Firm and the Consultant.

2. In consideration for Consulting Services, RBCCMC shall pay the Consultant a fee of **US\$150** per hour for each hour in which Consulting Services are rendered (the "Consulting Fee"). It is agreed that the Consultant will invoice the Firm for the Consulting Fee every two weeks, in arrears. The invoices shall be payable by the Firm within thirty (30) days from the date they are submitted.

3. Except as expressly provided for herein, the terms under which the Additional Consulting Services are being rendered are governed by the Consulting

Risk Management Consulting Services, LLC
December 20, 2006
Page 2 of 3

Agreement, as may be amended from time to time, which remains in full force and effect and is expressly incorporated herein.

Please indicate your acceptance of the terms of this letter agreement by signing and returning to me a copy of this letter.

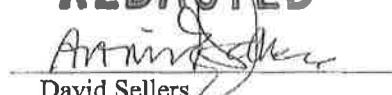
Very truly yours,

By: 
Argyle Burke
Managing Director

ACCEPTED AND AGREED TO:

Risk Management Consulting Services, LLC

Tax ID# REDACTED

By: 
David Sellers

Date: 20 DECEMBER 2006